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15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

17 UNITED STATES OF AMERICA,)

18 Plaintiff,)

19 v.)

20)
21 AEROJET-GENERAL)
22 CORPORATION and GENCORP,)
INC.,)

23 Defendants.)
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25
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27
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Civil No.

COMPLAINT FOR COST
RECOVERY

1 The United States of America, by and through the undersigned attorneys, by
2 the authority of the Attorney General of the United States and at the request of and
3 on behalf of the United States Environmental Protection Agency (“EPA”), alleges
4 the following:

5 STATEMENT OF THE CASE

6 1. This is a civil action brought pursuant to Section 107 of the
7 Comprehensive Environmental Response, Compensation, and Liability Act, as
8 amended (“CERCLA”), 42 U.S.C. § 9607, against Aerojet-General Corporation
9 (“Aerojet”) and GenCorp, Inc. (“Defendants”). Pursuant to CERCLA Section 107,
10 42 U.S.C. § 9607, the United States seeks recovery of unreimbursed costs incurred
11 and to be incurred by it, together with interest, for activities undertaken in response
12 to the release or threatened release of hazardous substances at the Baldwin Park
13 Operable Unit of the San Gabriel Valley Superfund Sites, Areas 1-4, in Los
14 Angeles County, California (the “BPOU Area” or “Site”). The United States also
15 seeks a declaratory judgment, pursuant to CERCLA Section 113(g)(2), 42 U.S.C.
16 § 9613(g)(2), that Defendants are jointly and severally liable for future response
17 costs incurred by the United States in connection with the Site.

18 JURISDICTION AND VENUE

19 2. This Court has jurisdiction over the subject matter of this action
20 pursuant to 42 U.S.C. §§ 9607 and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

21 3. Venue is proper in this district pursuant to 42 U.S.C. § 9613(b) and 28
22 U.S.C. § 1391(b) and (c) because the claims arose, and the threatened or actual
23 releases of hazardous substances occurred, in this district, and because Defendants
24 reside in this district.

25 DEFENDANTS

26 4. Each Defendant is a “person” as defined by Section 101(21) of
27 CERCLA, 42 U.S.C. § 9601(21).

28 5. Aerojet is an Ohio corporation that owned and conducted operations

1 at a facility located at 1100 W. Hollyvale Street in Azusa, California (“the
2 Hollyvale property”). Aerojet operated at the Hollyvale property from
3 approximately 1943 to 2001 and owned portions of this property from
4 approximately 1948 to 2001. Aerojet is a person who, at the time of disposal of a
5 hazardous substance, owned and operated a facility from which there was a release,
6 or a threatened release, of a hazardous substance that caused the incurrence of
7 response costs.

8 6. GenCorp is an Ohio corporation that is the successor-in-interest to the
9 General Tire and Rubber Company (“General Tire”). Beginning in or about July
10 1944 and continuing until at least February 1945, General Tire operated a joint
11 venture with Aerojet Engineering Corporation (“Aerojet Engineering”), the
12 predecessor-in-interest to Aerojet, at the Aerojet facility at the Hollyvale property.
13 GenCorp is a person who, at the time of disposal of a hazardous substance,
14 operated a facility from which there was a release, or a threatened release, of a
15 hazardous substance that caused the incurrence of response costs.

16 GENERAL ALLEGATIONS

17 7. The BPOU Area is located in the San Gabriel Valley in and near the
18 cities of Azusa, Irwindale, Baldwin Park, and West Covina in Los Angeles County,
19 California. The BPOU Area comprises a several mile long area of groundwater
20 contamination in the San Gabriel Valley. The BPOU Area is a “facility” within the
21 meaning and scope of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

22 8. In October 1984, EPA placed the BPOU Area on the National
23 Priorities List based on water quality information available at the time of listing.
24 40 C.F.R. Part 300, Appendix B. The BPOU Area is known as the San Gabriel
25 Valley Area 2 Superfund Site.

26 9. Subsequent investigation by EPA and others revealed the tremendous
27 extent of groundwater contamination in the San Gabriel Valley. During the past 25
28 years, more than one-quarter of the approximately 190 municipal water supply

1 wells in the San Gabriel Valley have been found to be contaminated, requiring
2 water companies to shut down wells, install new treatment facilities, and take other
3 steps to ensure that they can supply water meeting federal and State drinking water
4 standards.

5 10. From approximately October 1984 to April 1993, EPA undertook a
6 Remedial Investigation and Feasibility Study (“RI/FS”) for the BPOU Area,
7 pursuant to CERCLA and the National Contingency Plan, 40 C.F.R. Part 300. In a
8 report dated April 2, 1993, EPA presented the results of the BPOU Area RI/FS.

9 11. EPA’s decision on the interim remedial action for the BPOU Area is
10 embodied in an interim Record of Decision (“ROD”), executed on March 31, 1994.
11 The ROD is supplemented by an Explanation of Significant Differences issued in
12 May 1999. The selected interim remedy provides for the construction and
13 operation of groundwater extraction wells, treatment facilities, and conveyance
14 facilities capable of pumping and treating approximately 22,000 gallons per minute
15 of contaminated groundwater from the BPOU Area. This remedy is intended to
16 limit the movement of contaminated groundwater into clean or less contaminated
17 areas and depths, remove a significant mass of contamination from the
18 groundwater, and provide the data necessary to determine, in a subsequent final
19 Record of Decision, “in situ” cleanup standards for the BPOU Area.

20 12. Defendants operated at the Hollyvale property at various times
21 between approximately 1943 and approximately 2001. Defendants’ activities at
22 the Hollyvale property included the testing and production of solid and liquid fuel
23 rockets, torpedo research, manufacture of pressure vessels, the development and
24 testing of electro-optical sensing devices, generator simulation systems, and
25 semiconductor research and development. In support of these activities, Aerojet
26 operated rocket motor and waste propellant “burn areas,” vapor degreasers, leach
27 pits, leach beds, leach fields, industrial wastewater sumps, and waste treatment
28 systems. Chemical use at the Hollyvale property included, but was not limited to,

1 trichloroethene (“TCE”), perchloroethylene (“PCE”), 1,1,1-trichloroethane (“1,1,1-
2 TCA”), carbon tetrachloride (“CTC”), perchlorate, and N-nitrosodimethylamine
3 (“NDMA”).

4 13. In subsurface investigations at the Hollyvale property, PCE, TCE,
5 1,1,1-TCA, CTC, perchlorate, and NDMA have been detected in soil, soil vapor,
6 and/or groundwater. These investigations confirmed the presence of hazardous
7 substances, as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), at
8 the Hollyvale property.

9 14. The Hollyvale property is a “facility” within the meaning and scope
10 of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

11 15. There was a “release” or a threat of a “release,” as defined by Section
12 101(22) of CERCLA, 42 U.S.C. § 9601(22), of hazardous substances into the
13 environment at and from the Hollyvale property.

14 16. Hazardous substances, within the meaning of Section 101(14) of
15 CERCLA, 42 U.S.C. § 9601(14) have been disposed of at the Hollyvale property.

16 17. Hazardous substances and solid wastes released from the Hollyvale
17 property have moved downward from the surface and through soil, contaminating
18 groundwater beneath the Hollyvale property. The contamination has generally
19 migrated southward and westward from the Hollyvale property, leaving large
20 plumes of contaminated groundwater in the BPOU Area.

21 18. As of June 30, 2004, the United States had incurred response costs in
22 connection with the Site of approximately \$32.1 million. The United States has
23 received reimbursement to date in the sum of approximately \$11.4 million. The
24 United States continues to incur response costs in connection with the Site.

25 **CLAIM FOR RELIEF**
26 **Response Costs under CERCLA Section 107**

27 19. The allegations contained in Paragraphs 1 - 18 are realleged and
28 incorporated by reference herein.

1 20. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that the
2 owner and operator of a vessel or a facility from which there is a release, or a
3 threatened release, of a hazardous substance that causes the incurrence of response
4 costs shall be liable for all costs of removal or remedial action incurred by the
5 United States Government not inconsistent with the National Contingency Plan.

6 21. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides in
7 pertinent part that, in any action for recovery of costs: “the court shall enter a
8 declaratory judgment on liability for response costs or damages that will be
9 binding on any subsequent action or actions to recover further response costs or
10 damages.”

11 22. The actions taken by the United States in connection with the Site
12 constitute “response” actions within the meaning of Section 101(25) of CERCLA,
13 42 U.S.C. § 9601(25), in connection with which the United States has incurred
14 costs.

15 23. The costs incurred by the United States in connection with the Site are
16 not inconsistent with the National Contingency Plan, which was promulgated
17 under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a), and codified at 40 C.F.R.
18 Part 300.

19 24. Each Defendant is jointly and severally liable to the United States for
20 all response costs incurred and to be incurred by the United States in connection
21 with the Site, including enforcement costs and prejudgment interest on such costs,
22 pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

23 PRAYER FOR RELIEF

24 WHEREFORE, Plaintiff, the United States, prays that this Court:

25 1. Enter judgment in favor of the United States and against the
26 Defendants, jointly and severally, for all costs, including prejudgment interest,
27 incurred by the United States for response actions in connection with the Site and
28 not otherwise reimbursed;

1 2. Enter a declaratory judgment on liability for response costs or
2 damages that will be binding on any subsequent action or actions to recover further
3 response costs or damages;

4 3. Award the United States its costs of this action; and

5 4. Grant such other and further relief as this Court deems to be just and
6 proper.

7 Respectfully submitted,

8 FOR THE UNITED STATES OF AMERICA

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11 Date: _____

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17 Date: _____

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